# Affordable Abundance

## Alternatives to Section 106 of the Town and Country Planning Act 1990

James Hodgkinson
and Viggo Terling

Adam Smith Institute

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# About the Authors

**James Hodgkinson** is a Research Associate at the Adam Smith Institute.

He has previously written for the ASI on broadcast regulation, and is co-author of *Taming the Hydra: Ofcom and the British Broadcasting Market.* He has also written for GB News and Conservative Home, as well as appearing on broadcast for TalkTV.

James also serves as Kent's youngest Parish Councillor, and Vice-Chair of the KALC Canterbury Area Committee.

**Viggo Terling** is a Research Associate at the Adam Smith Institute.

He has written for several publications, including The Critic, ConservativeHome, and CapX. His research has been featured in The Telegraph, The Spectator, The Daily Mail, and in broadcast appearances on GB News.

Alongside his work at the ASI, Viggo is also a Board Member at Moderaterna i Storbritannien, the London association of the Swedish Moderates, the largest party in the governing coalition of Sweden.

*Edited by Jasper Ostle and Mitchell Palmer.*

# Executive Summary

- Section 106 (S106) obligations are legally binding planning agreements entered into between developers and local planning authorities under the Town and Country Planning Act 1990. In the context of affordable housing, these obligations regulate the price, tenure, and subsequent disposal of dwellings—typically by restricting values to a defined proportion of market levels and limiting eligible purchasers or occupiers. The system is designed to secure the delivery and long-term retention of affordable housing as a condition of granting planning permission.
- Section 106 mandates placed an estimated 40,569 homes at risk of delayed completion in the fiscal year (FY) 2025–26.
- Section 106 is effectively a tax of at least £1.3 billion on house-building, or £13,600 per open-market home.
- Registered Providers are constrained against acquiring additional Section 106 units, creating a blockage in the system.
- Appetite exists from private capital to expand into the affordable housing sector, although structural constraints and policy uncertainties dissuade them from doing so.
- Instead, the Adam Smith Institute proposes:
  - The abolition of the housing component of S106 obligations.
  - A return in full to the Homes England flat grant model of financing affordable housing.
  - The preferential allocation of said Homes England grant funding to the areas in which it can remove the most people from rent burden per pound spent.
  - The reduction of barriers and uncertainties restricting private capital involvement in the affordable housing market.
- These measures would create an environment more conducive to the continued provision of affordable housing by removing the distortionary effects of taxation on property development.

# Foreword

A housing sector that operates efficiently, delivering homes of various tenures, including market sale, market rental and subsidised rental, is essential in supporting economic growth and promoting social mobility. People need homes within easy reach of employment opportunities and stable, well-thought-out communities that allow us all to feel we have a stake in the future.

Today, we face a housing sector that is increasingly dysfunctional under multiple pressures: from cost inflation, increased regulation, and bureaucracy, all of which combine to place unnecessary barriers to the delivery of vital housing. It is in all our interests to look at this afresh and to promote new thinking that can break through these barriers and increase the delivery of new homes. It can be no surprise that Housing Secretary, Steve Reed, announced the reining in of 'overzealous' local authorities and mayors (including in London) whose 'gold-plated' net zero demands obstruct housing delivery.[1]

The proposals in this paper offer a clear way forward to assist developers to increase the pace of delivery, whilst still protecting the important role that social and affordable housing plays in a plural housing economy and, importantly, operating within existing regulatory structures to facilitate quick implementation.

The replacement of S106 agreements with something simpler and more effective has been mooted by both the last Conservative and the current Labour government. A challenge in doing so is often highlighted as the risk of losing that local bespoke element of Section 106 as a trade-off for greater simplicity. It should not be lost on anyone that a typical Section 106 agreement currently takes, on average, close to two years to agree with local planning authorities and is often fiendishly complex.

The attraction of the proposals in this paper is the precise targeting of the proposed new grant funding to areas of the country where it can have the most impact, deliver the greatest housing benefit, and consequently offer the very best value for money for the public purse.

This paper also highlights the growing and important role played by private capital, operating through fully regulated for-profit housing associations (of which there are now 78). The government needs to deliver clear, long-term policies that reduce the room for uncertainty, unwelcome surprises, and retrospective actions and that give confidence to investors to make long-term, risk adjusted commitments that will significantly increase the level of capital available to the housing sector.

**Andrew Dawber** | ***Senior Fellow, Adam Smith Institute***

1. Nick Gutteridge. 'Khan to be stripped of net zero powers that block housebuilding', *The Telegraph* (2025)

# Introduction

The United Kingdom faces a chronic housing crisis, with an estimated shortfall of 6.5 million homes.[2] Successive governments have sought to address this shortage, both with open-market and affordable housing. Despite this, the issue remains.

S106 agreements play a significant role in this system, accounting for around 45% of affordable housing delivery and nearly 20% of total new homes.[3] Yet, the mechanism itself is increasingly dysfunctional.

Price controls embedded within S106 agreements undermine development viability. Registered Providers (RPs), many of which face mounting financial and operational pressures, are often unable to take on new affordable housing stock. Our research shows that this led to approximately 40,569 units (both open-market and affordable housing) being at risk of delayed completion, as of June 2025.[4] Against a backdrop of a growing backlog of delayed and unoccupied affordable units alongside wider disruption to open-market housing supply, this is an especially pertinent issue. According to a recent report produced for Savills, delivery of affordable housing in FY 2025–26 will decrease by approximately 8%.[5]

On Tuesday, 16 December 2025, the government released their proposed reforms to the National Planning Policy Framework. In it, they recognise 'practical constraints' with the S106 model and state their intention 'to undertake a wider review of the statutory framework for modifying or discharging existing planning obligations'.[6] This inquiry was published on 28 January 2026. Whilst we welcome the report's acceptance of the systemic 'inefficiency and delay' associated with S106, it does not go far enough. The government does not wish to structurally reform affordable housing provision through the abolition of S106, and therefore will continue the imposition of an effective levy of £1.3 billion on housebuilding.[7]

The report itself recognises the need for 'standardisation' within the S106 process, yet also acknowledges that key features of the S106 process—including 'assessing the reasonableness of [RP] bids—is ultimately a matter for LPAs'.[8] Standardisation will only occur with a centrally administered system, which our proposed return to a Homes England administered grant system would achieve.

2. Ben Hopkinson. 'How Many Homes Does the UK Need?', *Centre for Policy Studies,* accessed 24/11/2025, https://www.thinkhouse.org.uk/site/assets/files/3211/cps0725.pdf
3. Migel Marques dos Santos. 'Affordable housing supply statistics (AHS) 2024-25, Live table 1011S and 1011C', *GOV.UK*, accessed 21/11/2025, https://www.gov.uk/government/statistical-data-sets/live-tables-on-affordable-housing-supply
4. This number is calculated using a figure from a survey carried out by the Home Builders Federation on the use of S106 across local authorities. Cf. 'Uncontracted S106 Affordable Homes: October 2025', accessed 04/12/2025, https://www.hbf.co.uk/news/uncontracted-section-106-affordable-homes-october-2025/ (8,500)
5. 'English Housing Supply Update', *Savills* (2025), accessed 30/03/2026, https://pdf.savills.com/documents/English-Housing-Supply-Update-Q3-2025.pdf
6. 'National Planning Policy Framework: proposed reforms and other changes to the planning system', *Ministry for Housing, Communities and Local Government*, accessed 17/12/2025, https://www.gov.uk/government/consultations/national-planning-policy-framework-proposed-reforms-and-other-changes-to-the-planning-system
7. GOV.UK. 'Policy statement: a roadmap for Section 106 delivery in England' (2026). https://www.gov.uk/government/publications/policy-statement-a-roadmap-for-section-106-delivery-in-england/policy-statement-a-roadmap-for-section-106-delivery-in-england
8. *Ibid.*

The report's financial measures, including earmarking up to 10% of a £2.5 billion low-interest loan scheme for S106 delivery, represent demand-side interventions which fail to address the structural inadequacies of the S106 system. Its more practical measures, such as the expectation that LPAs will 'renegotiate' S106 agreements to enable developers to sell units, are framed as 'time-limited emergency measures'.[9] Assuming the policy statement has a positive effect on immediate S106 delays, without permanent structural change, these problems will return as soon as the measures are removed.

This report by the Adam Smith Institute identifies the structural failings of the S106 system and proposes a series of practical reforms.

9. *Ibid.*

# What Is Affordable Housing?

There are, broadly speaking, two different types of housing in the UK: open-market housing and affordable housing.

Open-market housing, or 'market housing', is defined as 'private housing for rent or sale where the price is set in the open-market'.[10] Open-market housing encompasses all properties which are owner occupied (and not under the jurisdiction of government schemes such as the First Homes Scheme), and those which are privately rented to tenants who pay a price determined by a relatively (at least for now) unfettered market.[11]

Affordable housing encompasses a range of definitions. However, the following definition covers a variety of affordable housing types and is widely used by local planning authorities (LPAs) in the development of their local plans.[12]

Annex Two of the National Planning Policy Framework (NPPF) defines affordable housing as:

*Housing for sale or rent, for those whose needs are not met by the market (including housing that provides a subsidised route to home ownership and/or is for essential local workers); and which complies with one or more of the following definitions: social rent, other affordable housing for rent, discounted market sales housing, or other affordable routes to home ownership.*[13]

Within this definition, the following terms are defined as follows:

**Social Housing** units meet all of the following conditions:

1. The rent is set in accordance with the Government's rent policy for Social Rent (including provisions for CPI+1% rent caps).[14]
2. The landlord is a Registered Provider.
3. It includes provisions to remain at an affordable price for future eligible households, or for the subsidy to be reused for other affordable housing provision.[15]

**Other affordable housing** must meet all of the following criteria:

1. The rent is set in accordance with the Government's rent policy for Affordable Rent, or is at least 20% below local market rents.
2. The landlord is a registered provider, except where it is included as part of a Build to Rent scheme (in which case the landlord does not need RP status).

10. 'Policy 3.10 Definition of Affordable Housing', *The London Assembly,* accessed 05/12/2025, https://www.london.gov.uk/programmes-strategies/planning/london-plan/past-versions-and-alterations-london-plan/london-plan-2016/london-plan-chapter-3/policy-310-definition
11. GOV.UK. 'First Homes scheme: first-time buyer's guide', accessed 05/12/2025, https://www.gov.uk/first-homes-scheme
12. Hannah Cromarty and Cassie Barton. 'What is affordable housing?', *House of Commons Library* (2023), accessed 05/12/2025, https://commonslibrary.parliament.uk/research-briefings/cbp-7747/
13. 'National Planning Policy Framework', *Ministry for Housing, Communities, and Local Government* (2024), accessed 05/12/2025, https://assets.publishing.service.gov.uk/media/67aafe8f3b41f783cca46251/NPPF_December_2024.pdf
14. GOV.UK. 'Policy statement on rents for social housing', accessed 05/12/2025, https://www.gov.uk/government/publications/direction-on-the-rent-standard-from-1-april-2020/policy-statement-on-rents-for-social-housing#chapter-2-social-rent
15. 'National Planning Policy Framework', *Ministry for Housing, Communities, and Local Government* (2024), accessed 05/12/2025, https://assets.publishing.service.gov.uk/media/67aafe8f3b41f783cca46251/NPPF_December_2024.pdf

3. It includes provisions to remain at an affordable price for future eligible households, or for the subsidy to be recycled for alternative affordable housing provision.[16]

Additionally, affordable housing includes discounted market sales housing and other affordable routes to home ownership. However, these form comparatively small proportions of the units secured under S106 and are not the primary focus of our analysis.[17]

It is important to acknowledge that there is no universally accepted definition of affordable housing.[18] Therefore, these definitions serve only to outline the context and assumptions in which the rest of the report is situated. The lack of a singular definition itself belies the complexity of the system.

'Social rent' and 'other affordable housing' are administered by Housing Associations (HAs) and RPs. Whilst the terms are often used interchangeably, there is an important distinction to be made. HAs are not-for-profit organisations who function as social landlords to provide homes and support for approximately six million people in England.[19] RPs are a collective term for HAs, Local Authorities, or For Profit Registered Providers (FPRPs)—private companies providing affordable housing. Each type of RP is regulated in the same manner, and governed by the same legal responsibilities to those for whom they provide housing.[20]

16. *Ibid.*
17. Migel Marques dos Santos. 'Affordable housing supply statistics (AHS) 2024-25, Live table 1011S and 1011C ', *GOV.UK*, accessed 21/11/2025, https://www.gov.uk/government/statistical-data-sets/live-tables-on-affordable-housing-supply
18. Hannah Cromarty and Cassie Barton. 'What is affordable housing?', *House of Commons Library* (2023), accessed 05/12/2025, https://commonslibrary.parliament.uk/research-briefings/cbp-7747/
19. 'About Housing Associations', *National Housing Federation,* accessed 05/12/2025, https://www.housing.org.uk/about-housing-associations/
20. Housing Scrutiny Panel. 'The Role of Housing Associations in Enfield', *London Borough of Enfield,* accessed 05/12/2025, https://governance.enfield.gov.uk/documents/s86668/

# Where Does Section 106 Come From?

Planning restrictions have long been used as a method to secure perceived 'community benefit' from development. The Town and Country Planning Act 1947 instigated this precedent by allowing LPAs to subject applications to 'such conditions as they saw fit'.[21] In practice, these often constituted restrictions on access, type, layout and use of development, and ended the premise that developments could be conducted solely on the basis of ownership of land.[22]

The Town and Country Planning Act 1971 introduced the precursor to S106—the Section 52 obligation (S52).[23] This power allowed local authorities to require 'incidental and consequential provisions (including provisions of a financial character) as they appear to the LPA to be necessary or expedient for the purposes of the agreement'.[24] In the same manner as S106, S52 was legally binding on the land that the planning permission was applied for and was legally enforceable. However, unlike S106, there was no discharge mechanism and the provision for negotiation was even more contingent and case-specific than the current S106 framework.[25]

S106 agreements as they are today were conceived as part of the Town and Country Planning Act 1990.[26] They are still decreed by individual LPAs as a condition of planning permission, and agreements continue to be decreed on the land itself. They bind successors in title to the landowners who enter into the obligations, without there being a need for any additional deeds of covenant or other steps taken.[27] Critically, they are only enforceable if the development applied for begins construction.

Obligations agreed under S106 can be wide-ranging. Most often, they impose conditions regarding public open space, education, highways and affordable housing. The final of these is the subject of this inquiry.[28]

The premise of the affordable housing component of S106 is simple. S106 agreements function as an effective levy on developers where, in order to construct and sell their more profitable open-market properties, they must build or fund a certain number of affordable housing units within a broader development. The precise volume of units that developers are required to construct varies. Some councils negotiate this on a case-by-case basis, whilst others have pre-defined unit volumes or financial contribution targets in their local plans.[29] Local authorities are now so effective at securing affordable units that, in 2024, the Government was able to remove the 10% minimum for affordable housing in the National Planning Policy Framework (NPPF).[30]

21. GOV.UK 'Town and Country Planning Act 1947', accessed 04/12/2025, http://legislation.gov.uk/ukpga/Geo6/10-11/51/pdfs/ukpga_19470051_en.pdf
22. *Ibid.*
23. GOV.UK 'Town and Country Planning Act 1971', accessed 04/12/2025, https://www.legislation.gov.uk/ukpga/1971/78/section/52/enacted
24. *Ibid.*
25. *Ibid.*
26. *Ibid.*
27. Lauren Walker. 'What is a Section 106 Agreement', *Field Seymor Parkes LLP,* accessed 21/11/2025, https://www.fsp-law.com/what-is-a-section-106-agreement/
28. 'What is a Section 106 legal agreement', *Tendring District Council,* accessed 22/11/2025, https://www.tendringdc.gov.uk/content/what-is-a-section-106-legal-agreement
29. 'Planning Obligations', *Thurrock District Council,* accessed 21/11/2025, http://thurrock.gov.uk/planning-obligations/overview ;
30. 'Revisions to the National Planning Policy Framework (NPPF) and other announcements on planning reform', *Local Government Association,* accessed 21/11/2025, https://www.local.gov.uk/parliament/briefings-and-responses/revisions-national-planning-policy-framework-nppf-and-other

S106 is one of three major methods of securing the construction of affordable units in England. Homes England grants are the second major source of units. These grants are provided by central government and exist to 'support the capital costs of constructing affordable housing'.[31] Provision exists for the construction of 100,000 affordable units in this manner by 2029, with a financial allocation of £9.23 billion to achieve this goal.[32] This money can be allocated to a range of organisations, including charities, developers, RPs, and local authorities.[33] The third major source of funding for the construction of affordable and social housing units are Greater London Authority (GLA) grants, which apply only in London and were initially funded by a £4 billion package of government funding secured in 2020. These grants can also be accessed by a range of groups and entities through a London-specific application process.[34] Combined, these two sources equated to 54% of the total affordable housing stock developed in England in FY 2024–25, with S106 being used by local authorities to secure 42% of all affordable units constructed. The final 14% is financed through other means, such as recycled Right to Buy receipts and other local authority funding.[35]

Developers pay or build their S106 obligations at pre-defined stages of the development process, termed 'trigger points'.[36] These are variable, and are pre-negotiated as part of the consent process for a development. One issue stems from how these 'trigger points' are distributed through the development process. Many councils run schemes that require a significant proportion of affordable units to be completed before any open-market units can be sold.[37] For example, in North Somerset, developers are unable to sell more than 25% of their open-market units until 25% of affordable units are transferred to RPs.[38]

In negotiating S106 agreements, LPAs are required to recognise the reasonable need for developers to make a profit on their developments. To this effect, guidance attached to the NPPF stipulates that 'for the purpose of plan making an assumption of 15–20% of gross development value (GDV) may be considered a suitable return to developers in order to establish the viability of plan policies'.[39] Although the guidance does allow for planners to make alterations to this arrangement to reflect site-specific details, the existence of such guidance equips local planners with the tools they need to extract high levies from developers, further diluting incentives for developers to construct new housing.[40]

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31. 'Affordable Homes Programme 2021 to 2026', *GOV.UK*, accessed 21/11/2025, https://www.gov.uk/guidance/affordable-homes-programme-2021-to-2026
32. *Ibid.*
33. *Ibid.*
34. 'Homes for Londoners: Affordable Homes Programme 2021–2026', *Greater London Authority,* accessed 21/11/2025, https://www.london.gov.uk/programmes-strategies/housing-and-land/housing-and-land-funding-programmes/homes-londoners-affordable-homes-programme-2021-2026
35. Migel Marques dos Santos. 'Affordable housing supply statistics (AHS) 2024-25, Live table 1011S and 1011C', *GOV.UK*, accessed 21/11/2025, https://www.gov.uk/government/statistical-data-sets/live-tables-on-affordable-housing-supply
36. 'Section 106 FAQs', *South Holland District Council,* accessed 23/11/2025, https://www.sholland.gov.uk/article/16264/Section-106-FAQs
37. 'Planning obligations frequently asked questions (Section 106)', *Salford City Council,* accessed 21/11/2025, https://www.salford.gov.uk/planning-building-and-regeneration/planning-applications/planning-obligations-and-community-infrastructure-levy/planning-obligations-faqs/
38. 'PRO-FORMA FOR SECTION 106 PLANNING OBLIGATION REQUESTS', *North Somerset Council,* accessed 18/11/2025, https://n-somerset.gov.uk/sites/default/files/2025-02/L12.%20North%20Somerset%20Council%20affordable%20housing%20consultation%20response%205th%20August%202024.pdf?
39. GOV-UK. 'Guidance: Viability' (2014), accessed 02/12/2025, https://www.gov.uk/guidance/viability
40. Richard England, Min Qiang Zhao, Ju-Chin Huang. 'Impacts of property taxation on residential real estate development', *Journal of Housing Economics* (2013). https://www.researchgate.net/publication/257470186_Impacts_of_property_taxation_on_residential_real_estate_development

RPs remain financially constrained against acquiring new stock.[41] In turn, developers are now unable to sell the open-market units that they have constructed, creating a profound cashflow shortage in the sector as well as suppressing the delivery of open-market housing.[42]

Although Section 106 was introduced in 1990, affordable housing delivery through the mechanism remained limited for many years. In FY 2000–01, only 1,201 homes were delivered via S106, with the ratio of S106-funded units to Homes England and GLA-funded provision standing at just 0.04. By FY 2010–11, S106 delivery had increased to 3,491 affordable homes. However, over the period from FYs 2000–01 to 2010–11, the ratio of S106 to Homes England / GLA-funded provision averaged only 0.11.

Recently, the number of properties constructed under S106 has grown. From FYs 2011–12 to 2015–16, the affordable housing market saw a 2,340% increase in the proportion of S106 to Homes England / GLA-funded provision, with the ratio rising from 0.06 to 1.52. In FY 2022–23, a near-record 30,232 units were completed under S106 deeds. Crucially, this change has been accompanied by a marked decline in the number of affordable housing units provided directly by Homes England funding.[43] It is clear that the way S106 is used has fundamentally changed, placing unsustainable pressure on developers.

41. Noah Vickers, 'Affordable homes built in London 'with no one to take them' as housing associations battle soaring costs', *The Standard* (2024), https://www.standard.co.uk/news/london/affordable-housing-london-section-106-homes-associations-crisis-barratt-g15-b1169705.html
42. 'Thousands of Section 106 Affordable Homes Risk Remaining Empty', *Tyler Parkes* (2025). https://www.tyler-parkes.co.uk/post/thousands-of-section-106-affordable-homes-risk-remaining-empty
43. Migel Marques dos Santos. 'Affordable housing supply statistics (AHS) 2023-24 Live table 1011S and 1011C ', *GOV.UK*, accessed 21/10/2025, https://www.gov.uk/government/statistical-data-sets/live-table

# How Many Homes Is Section 106 Holding Back?

S106 agreements directly obstruct homebuilders. Data from the Home Builders Federation (a trade association for developers in the house-building industry) indicates that, as of June 2025, approximately 8,500 units due for or under construction in FY 2025–26 are without an RP.[44] These are at risk of being unoccupied or delayed. Additionally, the time taken to agree obligations under S106 has also increased by 20% and is now 515 days on average.[45] During this time, both the developer and the LPA will complete 'financial viability assessments', which seek to determine the amount of affordable housing that can reasonably be built per site via S106 obligations.

These are complex technical negotiations, which stretch the limited resources of local authorities. Developers often raise such limits as a key constraint on their ability to build, and S106 worsens them.[46] Moreover, the results of these negotiations are often not transparent or accountable, as the information discussed during the negotiations of these arrangements is not always publicly available.[47] This further delays the commencement of projects and the delivery of affordable as well as open-market properties.

In the coming years, this decline and disruption is set to worsen. According to research conducted by Savills, the number of homes built under S106 will reduce to 20,000 per year by FY 2028–29. This 'will require the grant programme to be more generous than previous editions' in order to 'maintain' current affordable housing delivery levels.[48] Despite this, the maintenance of current affordable housing delivery levels is unlikely to be enough to meet demand. According to one forecast there will be a shortfall of ~1 million affordable housing units by FY 2031–32.[49]

For developers, the issues posed by S106 obligations have reached a critical stage. However, this is only one of a number of issues facing the sector today. High post-Covid interest rates have increased the cost of project finance.[50] Property sales fell through the latter stages of 2025 for the first time in two years, before rebounding in March 2026.[51] Looking forward, market uncertainty caused by the ongoing war in Iran continues to make debt-financed development unattractive to housebuilders.[52] Many SME developers need the receipts from the sale of S106 units to fund

44. 'Uncontracted Section 106 Affordable Homes: October 2025', *Home Builders' Federation* (2025). https://www.hbf.co.uk/news/uncontracted-section-106-affordable-homes-october-2025/
45. 'What is the timeframe for local authorities to agree community investment?', *Home Builders' Federation,* accessed 11/11/2025, https://www.hbf.co.uk/research-insight/section-106-timeframe/
46. Chris Smyth and Julie Steinberg. 'London's high house prices need "market adjustment", says minister', *Financial Times* (2025), https://www.ft.com/content/9daeece5-0d17-40ae-82b6-e2b2d81fd189.
47. Simon Hill. 'How private developers get out of building affordable housing', *New Economics Foundation* (2022), accessed 02/12/2025 https://neweconomics.org/2022/02/how-private-developers-get-out-of-building-affordable-housing
48. 'What is the timeframe for local authorities to agree community investment?', *Home Builders' Federation,* accessed 11/11/2025, https://www.hbf.co.uk/research-insight/section-106-timeframe/
49. Paul Chamberlain. 'The Housing Challenge for the Next Government: Meeting the housing supply delivery gap', *WPI Strategy* (2024). https://www.thinkhouse.org.uk/site/assets/files/3003/case0524.pdf
50. Pedro Goncalves. 'Bank of England cuts interest rate to two-year low', *Yahoo! Finance,* accessed 18/11/2025, https://uk.finance.yahoo.com/news/bank-of-england-interest-rate-cut-latest-mortgages-110047258.html
51. Becky Bellamy. 'Housing market records first annual fall in new sales in two years: Zoopla', *Mortgage Strategy* (2025). https://www.mortgagestrategy.co.uk/news/housing-market-records-first-annual-fall-in-new-sales-in-two-years-zoopla/; Mark Sweeny. 'UK house prices rose sharply in March but Iran war expected to cause slowdown', *The Guardian* (2026), accessed 31/03/2026, https://www.theguardian.com/business/2026/mar/31/uk-house-prices-rose-sharply-march-iran-war-expected-cause-slowdown
52. *Ibid.*

subsequent development.[53] Lack of RP interest can therefore 'jeopardise cash flow and hinder investment in future projects'.[54]

Delays to the completion and execution of S106 deeds can therefore impact large numbers of open-market properties. According to our analysis, the number of open-market units at risk of being delayed by uncontracted S106 units is approximately 32,069.[55]

53. 'Uncontracted Section 106 Affordable Homes: October 2025', *Home Builders' Federation* (2025). https://www.hbf.co.uk/news/uncontracted-section-106-affordable-homes-october-2025/
54. *Ibid.*
55. This figure was calculated by multiplying the 8,500 Home Builders Federation estimate for uncontracted S106 units with the ratio of S106 completions to private enterprise developed housing, across FY 2020–21 to 2024–25: 'Uncontracted S106 Affordable Homes: October 2025', accessed 04/12/2025, https://www.hbf.co.uk/news/uncontracted-section-106-affordable-homes-october-2025/. Housing completion statistics were collated from the following sources: Migel Marques dos Santos. 'Affordable housing supply statistics (AHS) 2024-25, Live table 1011S and 1011C ', *GOV.UK*, accessed 04/12/2025,

# Why Are Registered Providers Not Buying Units?

Over half of the UK's largest HAs no longer intend to acquire properties constructed under S106, showing reticence towards the acquisition of new properties from those best placed to do so.[56] Inevitably, this will further delay the completion and sale of open-market housing, as the 'trigger points' previously outlined are unable to be met without RPs acquiring affordable units. Evidence from Northern Ireland shows that almost half of its planned social housing is unviable and is likely to be cut.[57] According to research conducted by Savills, 75% of HAs noted that financial capacity was impacting their desire to acquire new S106 properties and 67% stated this would be the case for the next 2–5 years.[58] The financial performance of RPs has weakened across the sector, as has been identified in several parliamentary reports.[59] Furthermore, individual RPs have experienced heavy losses, with Green Square Accord posting a £13.6 million loss for the FY 2024–2025,[60] and Latimer posting a deficit of £22 million—its third consecutive annual loss.[61]

The financial issues afflicting the sector stem partially from systemic issues with the wider housing market. Inflation, which rose to 10.1% in September 2022, is still at 3% today.[62] Within this headline figure, the costs of building materials have risen 37% since 2020, causing RPs to incur higher bills for repair and maintenance.[63]

Social rents are capped at Consumer Price Index (CPI) + 1% (noting that, when inflation was 10% in 2022, this was adjusted to just 7% rent increase).[64] This constitutes a measured rent control on affordable housing that limits prospective returns on said properties.[65] This includes those acquired under S106. In England, such rent controls only apply to social housing and were intro-

56. Keith Cooper. 'Revealed: How section 106 crisis is threatening affordable housing delivery', *Local Government Chronicle* (2025). https://www.lgcplus.com/services/housing/revealed-how-section-106-crisis-is-threatening-affordable-housing-delivery-06-01-2025/
57. Patrick Fi. 'Almost half of planned new social homes at risk of not being built', *BBC News*, accessed 10/12/25. https://www.bbc.co.uk/news/articles/c9d90vz4319o
58. 'The challenges of unlocking Section 106 delivery', *Savills* (2024), https://pdf.euro.savills.co.uk/uk/residential—other/the-challenges-of-unlocking-section-106-delivery—july-2024..pdf
59. GOV.UK. 'Housing associations reinvest record amounts into new and existing homes', accessed 20/11/25, https://www.gov.uk/government/news/housing-associations-reinvest-record-amounts-into-new-and-existing-homes;
60. Kate Callaghan. 'GreenSquareAccord reports near-£14m loss amid rising maintenance costs', *Inside Housing,* accessed 10/11/2025, https://www.insidehousing.co.uk/news/news/greensquareaccord-reports-near-14m-loss-amid-rising-maintenance-costs-93956?
61. James Wilmore. 'Clarion development entity falls to £22m loss amid 'unprecedented operating environment", *Social Housing*, accessed 21/11/2025, https://www.socialhousing.co.uk/news/clarion-development-entity-falls-to-22m-loss-amid-unprecedented-operating-environment-92973
62. 'Housing Associations need to think differently to get on a better financial footing', *KPMG,* accessed 21/11/25, https://kpmg.com/uk/en/insights/transformation/housing-associations-need-to-think-differently-to-get-on-a-better-financial-footing.html; Daniel Hilton. 'UK inflation forecast: where are prices heading next?', *Moneyweek* (2026), accessed 31/03/2026, moneyweek.com/economy/inflation/inflation-forecast-where-are-prices-heading-next
63. 'Building Material Prices: 0.2% Fall in Jan 2025', *Cladco,* accessed 22/11/2025, https://www.cladco.co.uk/blog/post/building-material-prices#:~:text=There%20has%20been%20a%20significant,slight%200.7%25%20fall%20in%20prices;
64. CPI bears no relation to the cost-structure of RPs, which as outlined above, have risen far beyond this metric.
65. GOV.UK. 'Policy statement on rents for social housing', accessed 19/11/2025, https://www.gov.uk/government/publications/direction-on-the-rent-standard-from-1-april-2020/policy-statement-on-rents-for-social-housing; Stephen Delahunty. 'Chancellor confirms 7% rent cap for social landlords', *Inside Housing,* accessed 18/11/2025, https://www.insidehousing.co.uk/news/chancellor-confirms-7-rent-cap-for-social-landlords-79142

duced in 2015.[66] Consequently, 16% of all units approved under S106 in England in FY 2024–25 are subject to rent controls.[67] In Scotland, rent controls were implemented across the whole of the country during the cost of living crisis, and permanent legislation was recently passed to allow local councils to resume this through the designation of rent control areas.[68]

For international comparison, France—where rent controls apply to private landlords—exempts social housing from rent control legislation.[69] In Spain, where social housing is subject to rent controls, the units are subsidised heavily by public funds.[70] In Germany, the 'Mietspiegel System' sets private sector rent controls. These controls apply almost ubiquitously across all German rental stock, as only 3% of the country's stock is social housing.[71] Rent controls in Germany are some of the most restrictive in Europe. These sustained measures have been accompanied by sharp decreases in housebuilding across Germany—with less than 100,000 homes being constructed in both 2022 and 2023.[72]

This mirrors broader international trends that highlight the negative effects of rent controls. According to a study published by the Institute for Economic Affairs, out of 42 studies that examined the impact of controlled rents, 37 found a negative effect, four found no effect, and one study found a positive effect.[73] In terms of supply-specific analysis, the report found no study that reported a positive impact on rates of housing supply from rent controls.[74]

Academic literature provides explanations as to why rent controls are ineffective. F. A. Hayek argues that housing is unique due to its 'durable' nature, as it retains its value for decades.[75] He theorises that the implementation of rent controls removes the incentive for developers to construct more units, even when there is demand, and leads to higher levels of immobility among the workforce—all of which harm the productivity and overall economic vitality of the state.[76] This theorisation is supported by contemporary research, including that conducted by Christine Whitehead and Peter Williams (2018). They conclude that rent controls in their current form can

66. Wendy Wilson. 'Rent setting: social housing (England)' (2022), accessed 05/12/2025, https://commonslibrary.parliament.uk/research-briefings/sn01090/
67. Migel Marques dos Santos. 'Affordable housing supply statistics (AHS) 2024-25, Live table 1011S and 1011C ', *GOV.UK*, accessed 21/11/2025, https://www.gov.uk/government/statistical-data-sets/live-tables-on-affordable-housing-supply
68. Kate Berry. 'The Cost of Living (Tenant Protection) (Scotland) Act 2022 - rent increase cap and evictions pause', *The Scottish Parliament,* accessed 19/11/2025, https://www.parliament.scot/chamber-and-committees/research-prepared-for-parliament/research-briefings/2023/6/7/the-cost-of-living-tenant-protection-scotland-act-2022–rent-increase-cap-and-evictions-pause;
69. 'A Brief Guide to Rent Controls in Europe', *Fieldfisher,* accessed 19/11/2025, https://www.fieldfisher.com/en/insights/a-brief-guide-to-rent-controls-in-europe
70. *Ibid.*
71. Marta Ferro Teixeira. 'Understanding European Social Housing Through a Comparative Lens', *ABN AMRO* (2025). https://assets.ctfassets.net/1u811bvgvthc/1MOKsBJq5sIyAreNFWUvUR/e9a8cc6edd51cd19a49417d752d161ec/ESG_Strategist_-_Understanding_European_Social_Housing_Through_a_Comparative_Lens.pdf
72. Jochen Moebert and Lennart Zwingenberger. 'Germany: The end of the single-family home?', *Deutsche Bank* (2024), accessed 01/12/2025, https://www.dbresearch.com/PROD/RPS_EN-PROD/PROD0000000000534706/Germany%3A_The_end_of_the_single-family_home%3F.xhtml
73. Dr Konstantin A. Kholodilin, 'Rent Control: Does it work?'. *Institute of Economic Affairs'* (2024). https://iea.org.uk/wp-content/uploads/2024/08/Rent-Control-Does-it-work-Dr-Konstantin-A.-Kholodilin.pdf
74. *Ibid.*
75. Note that, whilst broadly true over time, it is not a linear value increase. Capital spending for maintenance, upgrades, and wider market activity can cause property value and cost to fluctuate.
76. F. A. Hayek. 'The Repercussions of Rent Restrictions'. *Rent Control: A Popular Paradox. Evidence on The Effects of Rent Control. Vancouver: The Fraser Institute.* (1975).

consistently cause a reduction in supply, pressure to avoid or evade regulations, immobility, and poorly maintained property.[77]

Although rent controls have been a feature of the UK property market since 1915, this academic literature and international context outlines their damaging effects and helps to explain the reticence exhibited by RPs in acquiring additional units in today's market.[78]

In addition, RPs face far higher regulatory standards compared to their open-market counterparts. The Social Housing Regulation Act 2023 gave new powers to the Housing Ombudsman to ensure RPs are compliant with the statutory Complaint Handling Code, which stipulates how social landlords must respond to a complaint, timescales in which this must take place, and the information that must be provided.[79] No similar provision previously existed in the private sector, with the only method of recourse for tenants being 'first-tier tribunals'.[80] Furthermore, RPs are subject to 'Ofsted-style' snap inspections of their properties, sometimes with just 48 hours notice, which are carried out by local authorities.[81] The implementation of the Renters' Rights Act and other related legislation will see similar measures introduced in the private sector—albeit on a staggered basis with the full package of measures not likely to come into force until late 2026 at the earliest.[82] HAs have become a test case for wider reforms, and new measures have forced their operating model to change, further eroding certainty and confidence in the sector.[83]

Finally, environmental mitigation targets create further market anxiety. Affordable housing is mandated to achieve EPC Band C by 2030 but uncertainty remains as to how this will be financed.[84] Although the government has committed to an investment of £13.2 billion to improve the energy efficiency of housing through its Warm Homes Plan, it is yet to be announced how much of this will be reserved for the social rent sector.[85] Key stakeholders—including HAs—are still awaiting information on the issue, noting this in public statements.[86] They suggest the costs of retrofit

77. Christine Whitehead and Peter Williams. 'Assessing the evidence on Rent Control from an International Perspective'. *The London School of Economics and Political Science* (2018). https://www.lse.ac.uk/business/consulting/assets/documents/assessing-the-evidence-on-rent-control-from-an-international-perspective.pdf
78. Wendy Wilson. 'A short history of rent control', *UK Parliament Research Briefings* (2017), https://commonslibrary.parliament.uk/research-briefings/sn06747/
79. GOV.UK. 'Social Housing (Regulation) Act 2023', accessed 31/10/2025, https://www.legislation.gov.uk/ukpga/2023/36; 'The Housing Ombudsman's Complaint Handling Code', *Housing Ombudsman Service*, accessed 21/11/2025, https://www.housing-ombudsman.org.uk/landlords-info/complaint-handling-code/
80. GOV.UK. 'Solve a residential property dispute', accessed 10/11/2025, https://www.gov.uk/housing-tribunals
81. SOCIAL HOUSING REGULATION INSPECTION REGIME, *Winchester City Council* (2024). https://democracy.winchester.gov.uk/documents/s27909/CAB3450H%20Social%20Housing%20Regulation%20inspection%20regime.pdf
82. GOV.UK. 'Historic Renters' Rights Act becomes law', accessed 21/11/2025, https://www.gov.uk/government/news/historic-renters-rights-act-becomes-law; 'Residential property: Renters' Rights Act 2025 scope and implementation dates', *Addleshaw Goddard* (2025), accessed 31/03/2026, https://www.addleshawgoddard.com/en/insights/insights-briefings/2025/financial-regulation/financial-regulation-in-the-know-consumer-finance-december-2025/residential-property-renters-rights-act-2025-scope-implementation-dates/
83. Mark Cantrell. 'Regulator reminds social landlords new regime is now in force', accessed 20/11/2025, https://housingdigital.co.uk/regulator-reminds-social-landlords-new-regime-is-now-in-force/
84. Luke Beard. 'EPC C by 2030: The Clock is Ticking', *ARK,* accessed 20/11/2025, https://www.arkconsultancy.co.uk/news-article/epc-c-2030/
85. 'UK government confirms £13.2bn Warm Homes Plan amid criticism of retrofit policy failures', *Energy Institute,* accessed 22/11/2025, https://knowledge.energyinst.org/new-energy-world/article?id=139671
86. 'Warm Homes: Social Housing Fund', National Housing Federation, accessed 21/11/25, https://www.housing.org.uk/our-work/climate-and-sustainability/policy-funding/warm-homes-social-

programmes have been 'significantly' underestimated by politicians.[87] Additional uncertainty was created by the delayed publication of the Future Homes Standard (FHS).[88] The consultation for the FHS contained two main options: the least wide-ranging of these mandating the delivery of 'homes that deliver at least 75% carbon savings compared to 2013 energy efficiency requirements'.[89] The FHS was published in late March 2026, and its measures will be implemented from 2027.[90] Operating with this level of uncertainty, with multiple new regulations being implemented in years ahead, it is not surprising that the confidence of RPs to acquire new units has reduced. This has manifested itself in the reduced uptake of S106 units that this paper has already outlined.

The combined impacts of rent controls, increased regulatory burdens, and financial uncertainty have made taking on new units (including those built under S106) increasingly unattractive and untenable for RPs. This, in turn, has catalysed the growing issue of uncontracted S106 units and the associated blockage on open-market units, further worsening the UK's housing crisis.

housing-fund/#:~:text=We%20await%20further%20details%20of,deliver%20successful%20domestic%20retrofit%20programmes

87. Alex Funk. 'SFHA accuses ministers of 'significantly' underestimating retrofit costs', accessed 19/11/2025, https://www.housingtoday.co.uk/news/sfha-accuses-ministers-of-significantly-underestimating-retrofit-costs/5135418.article
88. GOV.UK. 'The Future Homes and Buildings Standards: Building Circular 01/2026' (2026), accessed 02/04/2026, https://www.gov.uk/government/publications/the-future-homes-and-buildings-standards-building-circular-012026/the-future-homes-and-buildings-standards-building-circular-012026-letter
89. GOV.UK 'The Future Homes and Buildings Standards: 2023 consultation', accessed 27/01/2026, https://www.gov.uk/government/consultations/the-future-homes-and-buildings-standards-2023-consultation/the-future-homes-and-buildings-standards-2023-consultation
90. 'The building regulations 2010', *HM Government* (2026), accessed 31/03/2026, https://assets.publishing.service.gov.uk/media/69c122a6cfa346b9d4704a55/ADL1_2026.pdf

# What Happens When S106 Units Go Uncontracted?

LPAs mandate S106 deeds, and as demand for S106 units among RPs has decreased, local authorities are placed under increasing pressure to help developers dispose of the units that they mandated but that developers find hard to sell.[91]

In December 2024, the Ministry for Housing, Communities and Local Government announced the creation of the Section 106 Affordable Housing Clearing Service. This was to help facilitate and accelerate the sale of uncontracted and unsold affordable homes across England (excluding London).[92] The premise of the system is that local authorities from across the UK, alongside RPs, have access to a centralised database from which they can access details of all uncontracted S106 properties.

Interest in the service was initially high. Over 70 local authorities and 200 RPs signed up for the scheme.[93] However, translation to demand has been weak. Just 10% of England's and Wales' uncontracted units passed through the clearing service in its first six months of operation.[94]

In many cases, local authorities have resorted to buying uncontracted S106 units in their areas. Southwark Borough Council purchased 380 S106 homes due to the lack of a buyer. In Margate, Thanet Borough Council purchased 31 S106 homes, again due to lack of RP interest.[95] The purchase of the 31 units in Margate cost the local authority £4.5 million (including legal costs), taken from the council's long-term 'additional capital' budget.[96] The funding for these large 'Turn-key' bulk purchases is acquired through debt financing, primarily from the Public Works Loan Board (PWLB), with some private sector finance crowd-ins. At the time of writing, PWLB interest rates sit at 6.25% for a 25-year loan, which adds further pressure to council financing over the medium-term as an externality to poor national planning policy.[97][98]

91. 'The challenges of unlocking Section 106 delivery', *Savills* (2024), https://pdf.euro.savills.co.uk/uk/residential—other/the-challenges-of-unlocking-section-106-delivery—july-2024..pdf
92. GOV.UK. 'The Section 106 Affordable Housing Clearing Service', accessed 21/11/2025, https://www.gov.uk/government/collections/the-section-106-affordable-housing-clearing-service
93. 'More than 200 registered providers and councils sign up to clearing service designed to unblock delivery of s106 affordable homes', *Local Government Lawyer,* accessed 20/11/2025, https://localgovernmentlawyer.co.uk/housing-law/397-housing-news/59847-more-than-200-registered-providers-and-councils-sign-up-to-clearing-service-designed-to-unblock-delivery-of-s106-affordable-homes
94. Ellie Brown. 'Less than 10% of estimated unsold Section 106 homes have passed through clearing service', *Inside Housing*, accessed 19/11/2025, https://www.insidehousing.co.uk/news/less-than-10-of-estimated-unsold-section-106-homes-have-passed-through-clearing-service-92789
95. Keith Cooper. 'REVEALED: How section 106 crisis is threatening affordable housing delivery', *Local Government Chronicle,* accessed 21/11/2025, https://www.lgcplus.com/services/housing/revealed-how-section-106-crisis-is-threatening-affordable-housing-delivery-06-01-2025/
96. 'Decision details Purchase of Section 106 Affordable Housing Units', *Thanet District Council,* accessed 22/11/2025, https://democracy.thanet.gov.uk/ieDecisionDetails.aspx?AIId=43852
97. *UK Debt Management Office*, 'Current PWLB Standard Fixed Interest Rates', Accessed 31/03/2026, https://www.dmo.gov.uk/data/pdfdatareport?reportCode=D7A.2
98. 'Policy statement: a roadmap for Section 106 delivery in England' states that local authorities can now use their 'Right to Buy receipts' to finance the purchase of some S106 units, which may reduce the impacts of this issue. See: GOV.UK. Policy statement: a roadmap for Section 106 delivery in England' (2026), https://www.gov.uk/government/publications/policy-statement-a-roadmap-for-section-106-delivery-in-england/policy-statement-a-roadmap-for-section-106-delivery-in-england#expanding-financial-capacity-to-revive-the-market-to-deliver-for-s106-homes

Despite S106 obligations being created to reduce the amount of public money being spent on the provision of affordable housing (as evidenced by the reduction in the volume of units constructed under Homes England or GLA grants), local authorities are once again financially responsible for the affordable housing acquisition process.[99]

Whilst a model of local government bail-outs of unsold S106 units may work on occasion, it is not the long-term solution. Local authority debt stands at £122 billion and vast proportions of budgets are spent on statutory functions.[100] For councils in England with social care responsibilities, children's services and adult social care now consume 65% of the entire local authority budget; up from 57% in 2014. Combined, councils on average are spending £212 per head more on these services compared to the previous decade.[101] The focus of local authorities should be on reducing their debt burden. This is especially important as one in five local authorities are at risk of insolvency. This risk will increase to 41% by FY 2028–29 unless spending is cut or revenues raised.[102] Spending more capital acquiring commercially unfeasible affordable housing units is not a viable operation to run in parallel to this.

For local authorities who do not want to buy units, it is possible to negotiate a 'commuted sum' with a developer.[103] These are payments to local authorities in lieu of the development of affordable units on site.[104] Whilst these provisions can be used to remove affordable units from sites in the pre-construction phase, they are also used as part of direct negotiation between developers and local authorities. This allows the former to 'write off' uncontracted S106 units and place them on the open-market to allow the continuation of development.[105] Whilst seemingly efficacious, this framework serves only to embed delays into the construction process. Developers must wait for RPs to refuse to take on their S106 properties in order to discharge their obligations in this way. In Arun, this takes a minimum of 5 months.[106]

Monies transferred to local authorities as a result of commuted sums vary depending on development type, property size, and the proposed tenure of the units being constructed.[107] In Watford,

99. Migel Marques dos Santos. 'Affordable housing supply statistics (AHS) 2023-24 Live table 1011S and 1011C ', *GOV.UK*, accessed 21/10/2025, https://www.gov.uk/government/statistical-data-sets/live-table
100. Paul Lynch. 'Schools, care homes and sports clubs sold off to pay spiralling council debt', *BBC News,* accessed 21/11/2025, https://www.bbc.co.uk/news/articles/cq87497v8ypo
101. 'Councils call for 'honest discussion' on what they should be expected to deliver as new data reveals local authorities spend two-thirds of their budgets on care services', *County Councils Network,* accessed 21/11/2025, https://www.countycouncilsnetwork.org.uk/councils-call-for-honest-discussion-on-what-they-should-be-expected-to-deliver-as-new-data-reveals-local-authorities-spend-two-thirds-of-their-budgets-on-care-services/
102. Simon Christian. 'The pressures facing UK councils', *GrantThornton,* accessed 21/11/2025, https://www.grantthornton.co.uk/insights/the-pressures-facing-uk-councils/
103. 'Commuted Sums (Section 106 Agreements) Developer Fund for Affordable Housing Protocol', *Northumberland Council* (2016). https://www.northumberland.gov.uk/NorthumberlandCountyCouncil/media/Housing/S106DeveloperFundforAffordableHousingProtocol-Nov2016-1.pdf
104. *Ibid.*
105. Laura Easton, Mark Felgate, Lin Cousins. 'Affordable Housing Delivery – Arun District Council March 2025', *Three Dragons* (2025). https://democracy.arun.gov.uk/documents/s20726/Appendix+to+Item+8+-+Affordable+housing+delivery+-+Three+Dragons+Report.pdf
106. *Ibid.*
107. 'Affordable Housing Delivery Supplementary Planning Document', *Royal Borough of Windsor and Maidenhead,* accessed 21/11/2025, https://www.rbwm.gov.uk/planning-and-building-control/planning-policy/planning-guidance/adopted-supplementary-planning-documents-spds/affordable-housing-delivery-supplementary-planning-document

commuted sums range between 10.5% and 21% of the GDV of the development.[108] A single project for the development of 38 homes under the City Council's planning jurisdiction led to a commuted payment of £1.2 million.[109] During this process, the 'effective levy' described earlier becomes a real-terms tax on development, with monies going directly to local authorities for them to fund their own affordable housing projects.[110] Despite losing the affordable housing units that S106 stipulates, local authorities seem slow to reinvest the capital they raise, with one report suggesting £6 billion in S106 developer contributions remain unspent by local authorities.[111]

It is clear that S106 is ineffective in securing affordable housing through direct or indirect means. On the supply side, S106 provision increases costs for developers, directly through commutations and indirectly through units sold to RPs for below market value. This, alongside impractical 'trigger point' conditions halting construction of open-market units, means S106 is an ineffective mechanism to deliver affordable units and has an obstructive impact upon open-market units. Given the challenges posed by the existing financial position of many local authorities, it is impractical for them to continue to acquire unsold S106 units. S106 is a flawed method of securing affordable units, and affordable housing provision needs radical change to ensure it is sustainable and viable for local authorities, RPs, and developers alike.

108. 'Affordable Housing: Developer Contributions Supplementary Planning Document (SPD)', *Watford Borough Council* (2025). https://watford.moderngov.co.uk/documents/s50998/Appendix%20A%20Affordable%20Housing%20SPD.pdf
109. '15/00856/FULM - 27 Woodford Road'. *Watford Borough Council,* accessed 24/11/2025, https://watford.moderngov.co.uk/ieIssueDetails.aspx?IId=8046&Opt=3
110. 'Appendix 1: Affordable Housing and Commuted Sum Strategy', *Maldon District Council,* accessed 24/11/2025, https://democracy.maldon.gov.uk/documents/s24881/Appendix%201.pdf
111. 'Unspent Developer Contributions', *Home Builders Federation,* accessed 24/11/2025, https://www.hbf.co.uk/research-insight/unspent-developer-contributions/

# Policy Proposals

## Proposal 1: Abolish the Housing Component of S106 Obligations

S106 obligations distort housing markets, disincentivise development, and have placed an estimated 40,569 properties at risk of delay—encompassing both S106 and open-market units.[112] They function as an off-the-books tax-in-kind on housebuilding. That is, there is no economic difference between the government requiring developers to build and sell homes for under their market value (i.e. S106) and the government taxing those developers and using the funds to build affordable housing itself, except for the extra delays arising from the in-kind design. The effective size of this levy exceeds £1.3 billion a year, or £13,600 per open-market home completed by private enterprise.[113]

Removing these obligations will prevent further obstruction to a market which has already been subject to increased regulatory burden, high material-cost inflation, and uncertainty around proposed climate change mitigation requirements.[114]

Removing S106 agreements pertaining to affordable housing would end the method currently used to secure 42% of England's total affordable housing.[115] As such, in our subsequent policy proposals we will outline methods by which we can retain supply levels without distorting sales markets or deterring ambitious investors.

The removal of S106 housing obligations will improve the viability of developments, accelerate build-out rates, and increase market responsiveness. This, in turn, will help deliver the housing supply that is desperately needed to help lower house prices and rents across the country.

Whilst the further removal of other levies connected to S106 (such as those for education, health, and environment) still constitute a tax on the construction of new properties, none are as damaging as the S106 housing component. This is because discharging the housing component relies on external organisations to the developer—namely, the willingness of RPs to acquire stock. For other S106 obligations, there is less reliance on external factors, as developers either self-build infrastructure or simply contribute money to LPAs for them to do so instead.[116]

Therefore, the removal of S106 obligations pertaining to affordable housing specifically will remove most of the distortive impacts of the wider S106 framework, whilst leaving local authority revenue streams for essential services like education and infrastructure unaffected by the changes.

Alongside the removal of the affordable housing component of S106, other measures would be required to ensure developers are not compelled to construct affordable housing 'through the backdoor'. To this end, Section 70 of the Town and Country Planning Act (1990) should be amended as follows: *(2A) For the purposes of subsection (2), any consideration relating to the provision, absence, proportion, quantity, tenure or type of affordable housing shall not constitute a material consideration.* Addition-

112. Number derived from the HBF modelling (8,500 homes), and the ratio of completed open-market units to those completed under S106 (3.77);
113. An estimate of the total value of current S106 developer contributions, calculated from the lower bound of Homes England Grant Funding (£50,000), and the number of S106 units completed in 2024–25 (24,544 in nil or part grants).
114. See page 13 of this report.
115. See page 4 of this report.
116. GOV.UK. 'Planning Obligations' (2019), accessed 08/12/2025, https://www.gov.uk/guidance/planning-obligations

ally, it would need to be made clear that affordable housing provision could not be considered as a factor in the approval of properties, even when it is mentioned in local or neighbourhood plans. Thus, a new subsection of the TCPA—2b would be required. It could say: *(2B) In applying subsection (2)(a), any policy or other provision relating to the provision, absence, proportion, quantity, tenure or type of affordable housing is to be disregarded.*

In addition, current TCPA legislation (Section 70(1)) permits LPAs to impose 'such conditions as they see fit' on planning applications. To remove the risk of residual objections, a third amendment could be inserted into the Act: *(2C) No condition may be imposed under subsection (1)(a), and no planning obligation may be sought or taken into account, for the purpose of securing the provision of affordable housing.*

## Proposal 2: Expand the Flat Grant System to Incentivise Affordable Housing Development

Removing S106 is essential. We have already highlighted that an estimated 40,569 homes are delayed due to S106.[117] Critically, these span both affordable housing and open-market property, showing the distortive impact S106 has on the housing market as a whole and the importance of removing the affordable housing component of S106 regulations entirely.

To incentivise the construction of affordable housing without discouraging development is a priority, and it will require pragmatic solutions. One such proposal is a cash lump-sum system, an extension of the Homes England grant scheme which has been in place in the UK in its current form since 2011.[118]

The average Homes England grant for affordable housing is £50,000–£65,000 per unit across England's regions, whilst the higher costs of developing property in London necessitate grant averages of £100,000–£125,000 per unit.[119] We propose maintaining the grant funding offered broadly in accordance with these levels, whilst setting specific grant levels for each affordable housing tenure type, with funding tiers within this framework on the number of bedrooms a property has.

Increasing the number and types of entities able to construct affordable housing using these grants is vital to ensuring the competitive landscape needed to drive value for money, and allow targeting of grants to areas of need. Currently, Homes England grants for the Social and Affordable Homes Programme (SAHP) 2026 to 2036 are only available to non-local authority or special project developers (commercial builders, private capital, or RPs) that commit to building at least 1,000 units in the period for pre-existing providers, or 1,500 units in the period for new developers.[120] In order to unlock additional private capital, we propose reducing this lower limit to a target of 100 units in the decade stipulated. Likewise, these grant programmes should move away from their iterative announcements and have secure long-term announcements, increasing developer viability and council buy-in.

117. See footnote 89.
118. 'Financial viability of the social housing sector: introducing the Affordable Homes Programme', *House of Commons Committee of Public Accounts* (2012), accessed 04/12/2025, https://publications.parliament.uk/pa/cm201213/cmselect/cmpubacc/388/388.pdf?
119. 'How Much Funding Do Housing Associations Receive from the Affordable Homes Programme?', *AXXCO* (2025), accessed 04/12/2025, https://www.axxco.co.uk/post/how-much-funding-do-housing-associations-receive-from-the-affordable-homes-programme
120. GOV.UK. 'Social and Affordable Homes Programme (SAHP) 2026 to 2036', accessed 04/12/2025, https://www.gov.uk/guidance/social-and-affordable-homes-programme-sahp-2026-to-2036

The major example in utilising private capital to support affordable housing development comes from the United States of America, with their Low Income Housing Tax Credit (LIHTC) system. LIHTC is the system used to subsidise the construction, acquisition, maintenance, and redevelopment of affordable housing units in America.[121] Each year, state and local governments are given a variable amount of federal tax credits to distribute to developers to facilitate the provision of affordable housing. States then allocate these tax credits to developers who make applications for said credits.

There are two types of LIHTC credits available: The 9% credit, which can only be used if the building project will have no other credits or government subsidies applied to it, and the 4% credit, which can be used in conjunction with federal tax-exempt bond financing.[122] Each credit is available for a wide range of properties, including single-family, multi-family, apartment complexes, and town houses.[123]

LIHTC credits are applied by the federal government for a period of 10 years after the construction of the units. For the first 15 years, enforcement of affordable rent agreements rests with the federal government, who can reclaim credits if the pre-stipulated affordable rents are not upheld.[124] Subsequently, enforcement passes to states, typically for 15 years—although this secondary period can be elongated as pre-stipulated by individual state legislatures, before agreements are made.[125]

Tax credits obtained under the LIHTC system are generally sold off by developers, in order to facilitate the construction of the units that they intend to construct and are acquired by banks and private investors.[126]

The LIHTC system has led to the direct construction of 245,673 affordable units between 2020 and 2023 alone, and provides approximately $8 billion per year in tax credits.[127] The system also has a track record of building at scale: 80% of LIHTC units in the USA are in metropolitan areas and, since its inception in 1987, the scheme has led to the construction of 3.23 million housing units in 48,672 projects.[128] That equates to ~85,000 houses per $8 billion a year, on average.

Whilst this US system provides a useful example of the potential for private capital to unlock development, it contains considerations and complications that make a direct, unedited copy of the system undesirable in the UK.

Firstly, the two levels of credit types offered by LIHTC complicate the system. 4% credits are typically used for retrofits or refits, whilst the larger 9% credits are used for full build-outs of afford-

121. 'What is the low-income housing tax credit and how does it work', *Tax Policy Center,* accessed 01/12/2025, https://taxpolicycenter.org/briefing-book/what-low-income-housing-tax-credit-and-how-does-it-work
122. 'How the 9 Percent Tax Credit Program Works'. *National Housing Conference,* accessed 01/12/2025, https://nhc.org/policy-guide/low-income-housing-tax-credit-the-basics/how-the-9-percent-tax-credit-program-works/;
123. Julia Kagan. 'Low-Income Housing Tax Credit (LIHTC): What It Is, How It Works', *Investopedia*, accessed 01/12/2025, https://www.investopedia.com/terms/l/long-income-housing-tax-credit.asp
124. Francis Torres. 'Preserving Long-Term Affordability in LIHTC Housing', *Bipartisan Policy Center,* accessed 01/12/2025, https://bipartisanpolicy.org/article/preserving-lihtc-housing/
125. *Ibid.*
126. 'What is the low-income housing tax credit and how does it work', *Tax Policy Center,* accessed 01/12/2025, https://taxpolicycenter.org/briefing-book/what-low-income-housing-tax-credit-and-how-does-it-work
127. 'Low Income Housing Tax Credit (LIHTC): Property Level Data', *Office of Policy Development and Research (PD&R)*, accessed 24/11/2025, https://www.huduser.gov/portal/datasets/lihtc/property.html
128. Uche Oluku & Shaoming Cheng. 'The Low-Income Housing Tax Credit Program: A Multicity Rent Savings Analysis', *Housing Policy Debate* (2022). https://nlihc.org/sites/default/files/2022-06/LIHTC-Rent-Savings-Oluku-and-Cheng-2022.pdf

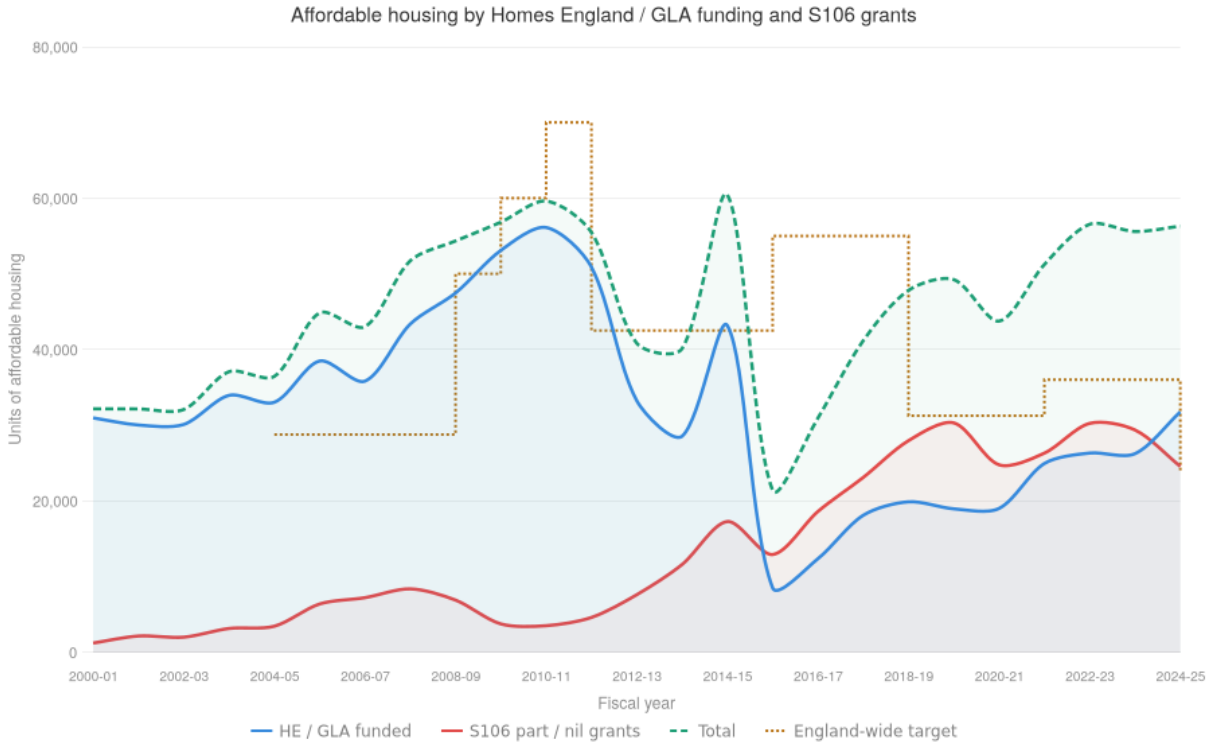
able units. Alongside this, the 4% credit can be used against other government-backed financing measures, whereas the larger 9% credit cannot.[129] The UK flat grant model should be more simple. It would only apply to the construction of new affordable units and could not be used in conjunction with any further government grants or subsidies.

Secondly, the principle of federalism in the US necessitates that funds are allocated to projects by administrators in individual states.[130] This can cause high levels of administrative duplication and inefficiency within the system due to the need to monitor compliance and select sites at a local level.[131] Indeed, in Minnesota alone, LIHTC is estimated to cost an additional $52.3 million per year through higher development costs relative to other programs of affordable housing development.[132] Our proposed flat-grant system, administered by Homes England, would avoid this predicament. Decisions would be made by one organisation (rather than one for each county) who consider affordable housing need across England, allowing funding to be targeted to specific areas where it can have the most impact per pound spent, as our third proposal will outline.

Finally, providing funding for projects on a proportion of development cost basis encourages developers to inflate the cost of their projects, in order to access additional tax credits.[133] In recent years, there have been numerous cases of those building LIHTC units being found to have committed fraudulent activity to this end—often at large scale.[134] One such example occurred in 2017, where National Public Radio profiled a Miami business, Biscayne Housing, which had partnered with one of the nation's top affordable-housing developers. Together the companies embezzled $34 million from 14 LIHTC projects by submitting inflated construction cost data to the state.[135] Providing a flat grant reduces this temptation to almost zero. Developers would instead be encouraged to build affordable housing units in the most cost-effective manner possible, whilst abiding by the stringent property-safety standards already in place for all newbuild development.[136]

For the flat grant proposal to function effectively, regular government capital would be necessary to create the additional flat grant funded units. This would be *in lieu* of the S106 tax-in-kind, which 'raises' around £1.3 billion a year. Raising this £1.3 billion from general taxation would be preferable, because of the uniquely damaging effects of the 'S106 tax' that this paper has outlined. Some of the funding could be obtained by utilising existing unspent revenues. Local authorities have approximately £8 billion of developer contributions in total, and £817 million which is allocated specifically for affordable housing (enough to 'support the delivery of around 11,000 affordable homes). Approximately 25% of this funding is completely unallocated, and could therefore be appropriated by Homes England to allow it to efficiently provide further affordable units, as part of this project.[137]

129. See page 19 of this report.
130. See page 18 of this report.
131. Edward G. Goetz and Margaret Turvey. 'The Relative Inefficiency of the Low Income Housing Tax Credit in Minnesota', *Center for Urban and Regional Affairs University of Minnesota* (2024). https://www.cura.umn.edu/sites/cura.umn.edu/files/2024-03/lihtc-memo.pdf
132. *Ibid.*
133. Dimitry Gorin. 'Common Fraud Schemes Associated with Affordable Housing Tax Credits', *Eisner Gorin LLP* (2025), accessed 05/12/2025, https://www.egattorneys.com/ahtcs-fraud-schemes
134. Chris Edwards and Vanessa Brown Calder. 'Low-Income Housing Tax Credit: Costly, Complex, and Corruption-Prone', *Cato Institute* (2017), accessed 05/12/2025.
135. *Ibid.*
136. 'The Building Regulations 2010', *Legislation.gov.uk* accessed 05/12/2025, https://www.legislation.gov.uk/uksi/2010/2214/contents
137. Adam Carey. 'Councils holding billions in unspent section 106 contributions, Home Builders Federation report claims', *Local Government Lawyer,* accessed 08/12/2025,




The above graph indicates that affordable housing provision does not require high proportions of S106-mandated developer contributions to achieve the desired output.[138] This is especially clear in FY 2010–11, where, despite overall affordable housing development via the two sources being at its second highest level in the period shown, S106 only amounted to 6.22% of total affordable housing development. Repeating this arrangement now in order to alleviate the distortive impact of S106 on the market is therefore practical, and history provides precedent.

Naturally, our proposal would result in an increase in measured government spending, as Homes England's funding would be substantially increased. However, this is simply an artefact of the opaque nature of the S106 system. In economic terms, switching from in-kind developer contributions to tax-financed cash subsidies would be expenditure-neutral.

The flat grant model would operate as follows. Homes England would run an annual process to select which investors or developers are to receive grants for which sites. This grant would be calculated based on a transparent formula that accounted for bedroom count and geographical region (such as giving a larger grant for units in London). Homes England would select projects based on both the geographical criteria laid out in the next section and grant recipients' measured ability to deliver.

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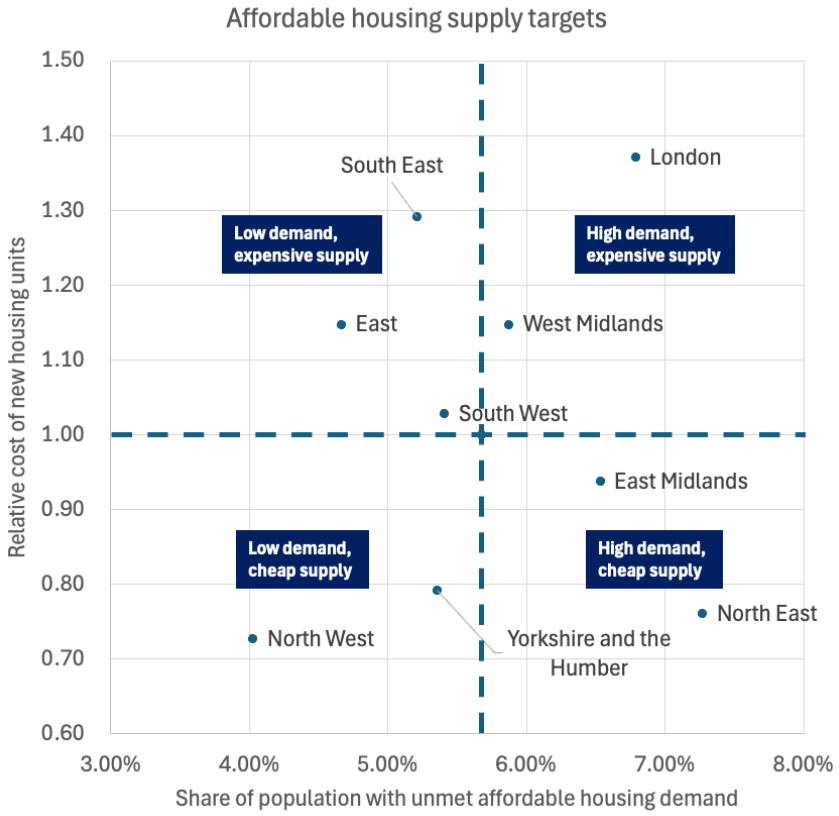
https://localgovernmentlawyer.co.uk/planning/401-planning-news/58882-councils-holding-billions-in-unspent-section-106-contributions-home-builders-federation-report-claims

138. Graph created by the Adam Smith Institute using data from: 'Table 1011: additional affordable housing supply, detailed breakdown by local authority' in 'Live tables on affordable housing supply', *Ministry of Housing, Communities & Local Government (2018 to 2021) and Department for Levelling Up, Housing and Communities*, http://www.gov.uk/government/statistical-data-sets/live-tables-on-affordable-housing-supply; Affordable housing targets derived from programme-lifetime totals set out in successive Spending Reviews, manifesto commitments, and Homes England/GLA programme prospectuses. No programme in this period set formal year-by-year delivery targets; annual figures are arithmetic averages. Figures are England-wide (including London).

## Proposal 3: Allocate Flat Grant Funding Preferentially to 'FairHome Areas'.

To balance the need for affordable housing and value for money, we propose a novel solution that will promote fiscal responsibility and avoid market distortions, whilst providing support for as many of those in need as possible.

When allocating affordable housing flat grants, Homes England would be required to consider both the share of the population with unmet affordable housing demand and the cost of satisfying that unmet demand. We have estimated unmet housing demand by multiplying the share of the regional population in the lower two national income quintiles, the proportion who privately rent, and the proportion of private renters who are rent-burdened (as calculated via the 40:30 ratio).[139] The relative cost of supply in each region is estimated by the ratio of the price of new homes sold recently in that area relative to the English average.




According to this model, affordable housing should be targeted to the lower-right quadrant of the graph. These are areas in which the construction of affordable housing will be cost-effective, allowing more people to be removed from rent burden per pound spent, compared to any other quadrant of the graph.

Construction of affordable housing should be avoided (or substantially scaled-down) in the regions on the left-hand side of the graph. Areas like the South East and East see comparatively lower shares of the population with unmet affordable housing needs and higher relative costs of new housing units. In these regions, each pound of grant money will remove fewer people from rent burden

139. GOV.UK. 'English Housing Survey 2023-2024: rented sectors' (2025), accessed 05/12/2025, https://www.gov.uk/government/statistics/english-housing-survey-2023-to-2024-rented-sectors/english-housing-survey-2023-24-rented-sectors;

and will have a more distortive impact on the local property markets. To reflect this assumption, Homes England would allocate less flat grant funding to these regions than those on the right-hand side of the graph.

Regions located in the upper right quadrant of the graph present something of an additional challenge. Evidently, demand for affordable units in these areas is high (due to there being a high share of the population with unmet affordable housing demand). However, the relative cost of a new housing unit is also high, meaning that each pound of flat grant money given will lift a lower number of people out of rent burden. A tailored, region-specific approach is needed in these areas.

This is most important in London. Currently, London is the area where the impacts of affordable housing restrictions are especially acute. 'Social housing landlords owned just under 800,000 units for rent in 2023', approximately 20% of the total stock in the city.[140] This increases competition for open-market property due to a reduced pool of available open-market stock. Furthermore, any developments within London tied to S106 obligations are subject to the delays that this paper has already outlined.

With the fewest homes per capita of any UK city and with an average house price of £554,000 it is not practical for affordable housing units to be located in the city.[141] Units offered at the standard 20% affordable discount simply remain unaffordable for many Londoners.[142] Subsidising demand is not enough. Nonetheless, this leads to schemes like the Living London Rent (LLR), which creates subsidies of up to 50% for renters.[143] This is unsustainable given the high debt levels of GLA construction companies such as GLA Land and Property Limited, which has accrued deficits of £300 million.[144]

As well as the relative unviability of affordable housing construction in London, the London property market also spotlights another weakness of the S106 scheme. As noted in a 2018 report published by Savills, affordable housing in Britain (and by extension the S106 scheme) functions under a cross-subsidy model. Because HAs have to provide affordable housing at sub-market rates, they use profit from open-market sales to subsidise this.[145]

But a structure of affordable housing provision that is underpinned by a cross-subsidy model is particularly vulnerable to market cycles. For example, during the 2008 global financial crisis, the delivery of S106 units fell by 55% as a collapse in demand meant fewer housing starts.[146] A

140. Guk Yu, Gábor Csontos and James Gleeson. 'Housing in London 2024', *GLA Housing and Land,* accessed 24/11/2025, https://data.london.gov.uk/download/24rpx/8cdbb084-982c-44f3-a890-765f4002cbaa/Housing%20in%20London%202024%20report%20-%202nd%20edition.pdf
141. Ben Hopkinson. 'Why Can't London Build Housing?', *City AM,* accessed 24/11/2025, https://www.cityam.com/why-cant-london-build-housing/; HM Land Registry. 'UK House Price Index for January 2026', *GOV.UK* (2026), accessed 31/03/2026, https://www.gov.uk/government/news/uk-house-price-index-for-january-2026
142. Nic Hopkirk. 'What is affordable housing?', *Zoopla,* accessed 24/11/2025, https://www.zoopla.co.uk/discover/buying/what-is-affordable-housing/
143. 'Buying your London Living Rent, Rent to Homebuy or UpToYou home', *L&Q,* accessed 24/11/2025, https://www.lqgroup.org.uk/your-home/tenants/can-i-buy-my-home/purchase-options
144. James Riding. 'Internal auditor's report suggests London mayor's housing fund could require bailout', *Inside Housing,* accessed 24/11/2025, https://www.insidehousing.co.uk/news/internal-auditors-report-suggests-london-mayors-housing-fund-could-require-bailout-89857
145. 'Affordable Housing: Building through cycles', *Savills*, accessed 11/12/2025, https://pdf.euro.savills.co.uk/uk/residential—other/affordable-housing-building-through-cycles-2018.pdf
146. This figure is derived from a percentage decrease calculation using S106 completion figures from FY 2007–8

secondary consequence of decreased demand was a fall in transaction volumes, which reduced the open-market profits of HAs and, in turn, the viability of the cross-subsidy model.[147]

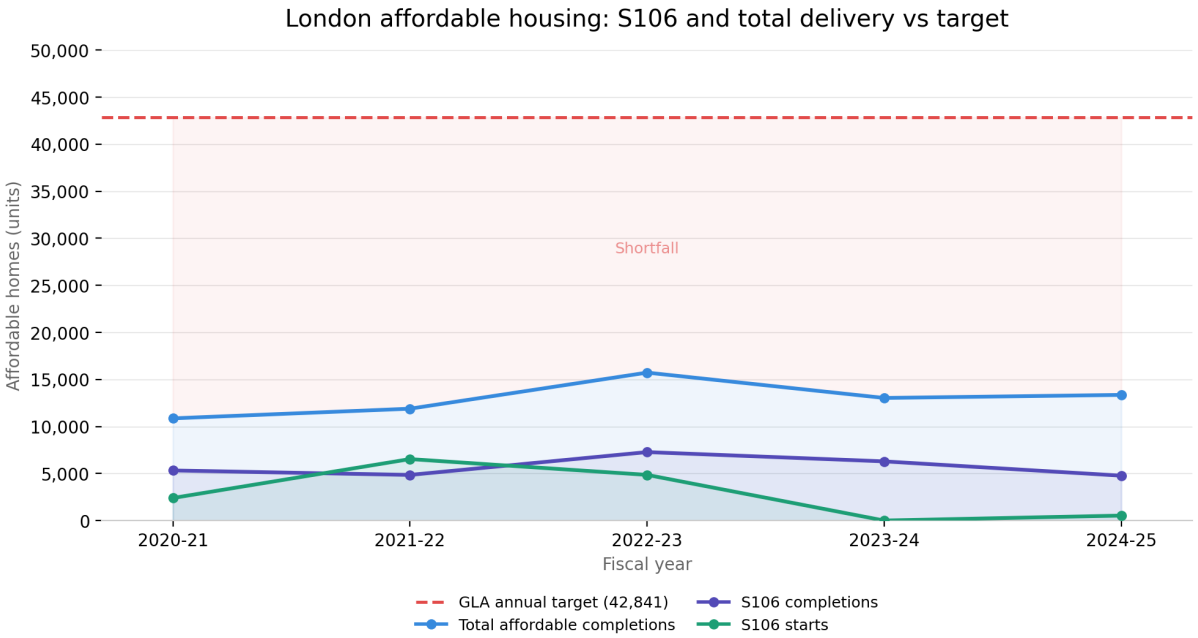
In line with historic trends, a prevailing downturn in the London housing market has drastically reduced S106 development. As reported in The Financial Times, the growth rate of property prices in London relative to the rest of the country has slowed since 2016.[148] Over the past decade, the average value of a London home increased by only a third of the value that homes across the rest of Great Britain increased by. Moreover, in the year to September 2025, a price decline across the London boroughs of 1.8% was seen. This is despite consistently high demand due to the city's status as a global financial centre and its high population density relative to its constrained land supply.[149]

In addition, like in 2008, transaction volumes have also fallen. In September, Property Reporter highlighted that over a six month period, 'only 29 new-build sales took place in London over six months, making up 0.9% of transactions.'[150] This equates to an 84% fall in new build transaction volume, which is symptomatic of the overall 37% drop observed across the entire housing market from April to September 2025.[151] Indeed, the number of property sales has now reduced to 48% of its pre-2008 level, clearly signalling systemic market stress.[152]

The consequence of declining price growth and transaction volume has meant that, between FY 2022–23 to 2023–24, a 99.86% decrease in S106 starts in London was observed. S106 starts in London reduced from 4,857 in 2023 to 7 in 2024.[153] Whilst significant, this collapse in S106 starts is yet to be fully acknowledged as the fall in start volume has not yet been reflected as sharply in completions. This is for two reasons. Firstly, S106 is not the sole contributor of affordable housing in London, accounting for 44% of affordable home completions between FY 2020–21 and 2024–25.[154] Secondly, starts are a leading indicator of new supply, with a typical lag of one to two years before a fall in start volume translates into reduced completions.[155] This can be observed in the graph below, which shows the broader short fall that has been seen in London in regard to affordable housing delivery, but also the progressive decrease in S106 completions as a response to

147. 'Affordable Housing: Building through cycles', *Savills*, accessed 11/12/2025, https://pdf.euro.savills.co.uk/uk/residential—other/affordable-housing-building-through-cycles-2018.pdf
148. Julie Steinberg. 'How London's Housing Market has Stagnated', *The Financial Times* (2025), accessed 11/12/2025, https://www.ft.com/content/18227e7c-402e-4222-8829-ca6b04423fd0
149. 'The Global Financial Centres Index 38', *Z/Yen,* accessed 25/11/2025, https://www.longfinance.net/media/documents/GFCI_38_Report_2025.09.25_v1.0.pdf
150. 'London new-build sales slump to just 0.9% of transactions', *Property Reporter* (2025), accessed 11/12/2025, https://www.propertyreporter.co.uk/london-new-build-sales-slump-to-just-09-of-transactions.html
151. *Ibid.*
152. Office For National Statistics (ONS). 'Residential property sales for administrative geographies (existing dwellings) - Year ending March 2025 edition of dataset' (2025), accessed 11/12/2025, https://www.ons.gov.uk/peoplepopulationandcommunity/housing/datasets/residentialpropertysalesforadministrativegeographiesexistingdwellings; To calculate the percentage change, the March 2008 and March 2025 figure for number of property sales (existing dwelling) were used. (144,914-74,804)÷144,914=0.48 (2 d.p).
153. Migel Marques dos Santos. 'Affordable housing supply statistics (AHS) 2024-25, Live table 1011S and 1011C', *GOV.UK*, accessed 21/11/2025, https://www.gov.uk/government/statistical-data-sets/live-tables-on-affordable-housing-supply; Results from this table were filtered for London, and raw figures for FY 2022–23 and 2023–24 were used (4,857 and 7 respectively). These were then used to calculate the percentage decrease change: (4,857-7)÷4857=99.86 (2 d.p).
154. Migel Marques dos Santos. 'Affordable housing supply statistics (AHS) 2024-25, Live table 1011S and 1011C', *GOV.UK*, accessed 21/11/2025, https://www.gov.uk/government/statistical-data-sets/live-tables-on-affordable-housing-supply
155. Savills. 'UK Residential Market Update' (2026), accessed 31/03/2026, https://www.savills.co.uk/research_articles/229130/377631-0

the fall in starts.[156] On this basis, a significant further decrease in completions can be expected in FY 2025–26, assuming the typical lag between starts and completions holds.




Low construction rates exacerbated by S106 mean that London's housing shortage has reached crisis point.[157] Infamously, the median open-market home in London is now more than 11.5 times more expensive than the median London salary, compared to a ratio of 7.6 across England.[158] Due to these high prices, the average private renter in London now spends between 40–50% of their income on rent.[159] These are amongst the most rent-burdened tenants in the country.

Put together, London demonstrates the fragility of S106 as an effective method of affordable housing provision. In 2024, the HBF reported that across England and Wales, building could not commence on 17,400 affordable homes 'as HAs did not have the financial capacity to bid for them.' Kate Henderson, chief executive of the National Housing Federation, stated at the time that buying homes delivered through S106 was 'not a viable option' for HAs.[160] As explained, this can be partially informed by the decreasing open-market profits caused by profound uncertainties within the housing market.

156. Graph created by Adam Smith Institute using MHCLG Live Table 1011 (affordable housing supply statistics, England). "Total affordable completions" covers all delivery routes including S106, grant-funded, and nil-grant schemes. "S106 completions" and "S106 starts" reflect units delivered or commenced specifically through Section 106 planning obligations. The GLA annual demand estimate of 42,841 is derived from the Greater London Authority's Strategic Housing Market Assessment. All figures relate to London only and cover fiscal years running April to March.
157. ''Alarming' fall in housebuilding in London', *Centre for Policy Studies,* accessed 25/11/2025, https://cps.org.uk/media/post/2025/alarming-fall-in-housebuilding-in-london/
158. Ben Hopkinson. 'The City That Doesn't Build: An analysis and explanation of London's housing slowdown', *Centre for Policy Studies,* accessed 24/11/2025, https://cps.org.uk/wp-content/uploads/2025/10/London-Briefing-FINAL.pdf
159. *Ibid.*
160. Jack Simpson. 'Thousands of affordable homes 'held up by lack of money from providers', *The Guardian* (2024), accessed 11/12/2025, https://www.theguardian.com/society/2024/dec/17/17400-affordable-homes-england-wales-not-being-built-lack-of-housing-association-money

The purpose of highlighting London is to demonstrate how the effectiveness of the S106 cross-subsidy model is particularly dependent on positive market cycles. Thus, when the market encounters a downward trend, S106 is the first and most severely affected component.

Our proposed approach will ensure that as many rent-burdened people are affordably housed as possible, given a limited pool of funding, whilst avoiding the distortive effects of building affordable housing units in the most expensive areas of London where affordable housing is currently mandated under the ineffective S106 scheme.

## Proposal 4: Reduce or Remove Existing Restrictions on Private Capital Involvement in the Affordable Housing Sector

Private equity firms are able to engage with the Affordable Housing sector by acquiring units through FPRPs.[161] As of 2025 there were 78 FPRPs who combined reported 46,555 units of social stock, 21% more than in 2024 (38,573).[162]

FPRPs intend to grow and develop their holding, despite the pressures on existing RPs who occupy the market. 85% of FPRPs who responded to a Savills survey plan on raising additional capital and registering additional companies, with combined goals to increase total unit holding by FPRPs to reach a stockholding of 150,000 units by 2030.[163]

Private equity firms value the stable, long-term income streams that affordable housing provides.[164] These originate from the long waiting lists, capital appreciation, and secure, long-term tenancies.[165]

Despite these advantages and the clear aspiration for expansion from FPRPs, projected FPRP expansion would only amount to 7% of the Government's target to build 1.5 million new homes by 2030.[166]

Increasing the scale at which FPRPs are able to acquire affordable units would increase the attractiveness of such proposals. One way in which this could be accomplished is to replace 'granular' S106 development with commercially attractive affordable housing units in concentrated developments within 'FairHome Areas', as outlined in the third policy proposal of this paper.[167]

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161. The recent policy statement states that the government is 'continuing to explore how government can crowd in additional private investment to enable the purchase of unsold S106. See: GOV.UK. Policy statement: a roadmap for Section 106 delivery in England' (2026), https://www.gov.uk/government/publications/policy-statement-a-roadmap-for-section-106-delivery-in-england/policy-statement-a-roadmap-for-section-106-delivery-in-england#expanding-financial-capacity-to-revive-the-market-to-deliver-for-s106-homes
162. 'Private registered providers stock and rents in England - Summary (key facts)', *Regulator for Social Housing,* accessed 24/11/2025, https://www.gov.uk/government/statistics/private-registered-provider-social-housing-stock-and-rents-in-england-2024-to-2025/private-registered-providers-stock-and-rents-in-england-summary-key-facts
163. Lydia McLaren and Steve Partridge. 'A Growing and Diversifying Sector', *Savills*, accessed 24/11/2025, https://www.savills.co.uk/research_articles/229130/376972-0 ;
164. *Ibid.*
165. 'Investing in Social Housing: Balancing the Pros and Cons', *North East Property Investment,* accessed 24/11/2025, https://nepi.uk/investing-in-social-housing-balancing-the-pros-and-cons/
166. GOV.UK. 'Planning overhaul to reach 1.5 million new homes', accessed 24/11/2025, https://www.gov.uk/government/news/planning-overhaul-to-reach-15-million-new-homes
167. Rasheed Rahman. 'How private capital unlocks social and affordable housing development', *PIC,* accessed 24/11/2025, https://www.pensioncorporation.com/news-insights/insights/2024/how-private-capital-unlocks-social-and-affordable-housing-develo

Despite this, scale alone will not increase private equity involvement in the market. Decisions to implement rent caps on social housing in recent years have caused profound market uncertainty around the long-term viability of affordable housing acquisitions for commercial entities.[168]

Additionally, environmental legislation, such as the requirement for social housing to meet EPC Band C by 2030, has reduced the confidence of FPRPs to acquire new units, particularly from S106 and other developer construction projects where RPs have little involvement in the specification process. 60% of FPRPs will only acquire properties with an EPC rating of B or higher, suggesting that they are attempting to go further than the Government's current targets, indicating fears of further regulations and retrofitting mandates in the future.[169]

To improve market confidence, the government should commit to no future rent controls on social or privately rented housing stock, as well as to go no further with additional carbon neutrality and EPC band mandates on residential properties.

In order to properly capitalise on the more favourable and certain conditions this will create for RPs to operate in, it is essential to improve provider access to the affordable housing market wherever possible. As previously outlined, Homes England grants are only available to non-local authority or special project developers (commercial builders, private capital, or RPs) who commit to building at least 1,500 units over the decade (or at least 1,000 for pre-existing providers).[170] Our proposal to reduce this lower limit to 100 units allows private capital organisations to begin with smaller holdings, and then to scale and grow should these prove sustainable and viable for them. It would be reasonable to assume that such a proposal would see many more small and intermediate-sized RPs, backed by private capital, becoming involved in the affordable housing sector.

168. Lydia McLaren and Steve Partridge. 'Opportunities for Growth', *Savills,* accessed 24/11/2025, https://www.savills.co.uk/research_articles/229130/376974-0

169. *Ibid.*

170. GOV.UK. 'Social and Affordable Homes Programme (SAHP) 2026 to 2036', accessed 04/12/2025, https://www.gov.uk/guidance/social-and-affordable-homes-programme-sahp-2026-to-2036

# What Will the Affordable Housing Market Look Like?

As a result of our proposals, the landscape of the affordable housing market will undoubtedly shift. However, it is important to acknowledge that Britain has an established history of affordable housing provision. This paper does not seek to overturn this precedent, nor does it seek to pursue the wholesale disposal of existing affordable housing. Instead it seeks to redefine the mechanism of affordable housing delivery across the country, making it more reliable, and more resilient to wider market uncertainties.

The greatest change will be in who will be responsible for constructing affordable housing units. As this paper has outlined, S106 obligations force developers to construct affordable units as a condition of planning.[171] In isolation, removing this obligation will mean developers are less likely to develop affordable housing units, as the mechanism of compulsion is removed. In place of this obligation—which, as we have noted, is effectively a highly distortionary tax on homebuilding—we will fund affordable housing through Homes England grants paid for out of (less distortionary) general taxation. These grants may not be large enough to encourage developers to devote substantial portions of otherwise market-rate developments to affordable housing, though some nonetheless will.

In developers' place, other organisations will make up the shortfall in construction of affordable units. Our proposal to reduce the minimum unit construction threshold for flat grant access from 1,000 and 1,500 units by 2036 (respectively) to 100 units would engage a new wave of private investors in the affordable housing market.[172] If this fails, the government could simply increase the size of the grants.[173]

There is significant appetite amongst those involved in private capital investment to grow their holding in the affordable housing sector through the use of FPRPs.[174] One of the main reasons for existing RPs being unwilling to purchase current S106 housing stock is that they are often uninvolved in the design process. This leads to 'significant issues with some S106 [homes] which have been built to the wrong specification, design, or standards', and are therefore unattractive and unoccupied.[175] For RPs who are concerned about the standard and specification of their affordable housing stock, the flat grant system, with its reduced volume eligibility criteria, presents an opportunity. It would be possible for small and medium-scale RPs to receive direct support from the government to develop affordable housing bespoke to the needs of their business model and their tenants. We anticipate that this is how much of the potential affordable housing shortfall created by the removal of S106 regulations on developers would be alleviated.

One market that may see profound growth in the affordable housing sector is impact investing.[176] In 2023, the market was worth £76.8 billion—and had grown by 10.1% annually since 2020, despite

171. See page 5 of this report.
172. See page 19 of this report.
173. This also implies that the effective size of the S106 tax is higher than we estimated.
174. See page 27 of this report.
175. Carl Brown. 'G15 and NHF stress complexity of section 106 issue following 'not good enough' comment from MHCLG', *Housing Today* (2025), accessed 16/12/2025, https://www.housingtoday.co.uk/news/g15-and-nhf-stress-complexity-of-section-106-issue-following-not-good-enough-comment-from-mhclg/5138516.article
176. Impact investments are defined by the Global Impact Investment Network as 'investments made with the intention to generate positive, measurable social or environmental impact alongside a financial return'.

wider market stagnation.[177] For impact investors, the affordable housing market presents a strong commercial proposition, with typically long-term tenancies, and guaranteed, steady returns on their investments. This is alongside an obvious social benefit of providing housing for those on low incomes.[178] Involving sectors such as this will be vital for meeting affordable housing demand in the areas most in need.

Affordable housing will also be distributed differently. It is highly unlikely that the current model of a proportion of units on most large sites being affordable will persist. Instead, those constructing affordable units will likely build larger groups of affordable housing units altogether, as per productivity benefits accrued from economies of scale via agglomeration.[179] As with the LIHTC model, the dynamics of a subsidy model means developers of affordable housing are likely to build units in areas with lower land value, which are typically areas of higher levels of rent burden.[180] This will enable affordable housing to naturally target areas of need (as determined by our 'FairHomes' policy), in a similar manner again as the American LIHTC model.[181] The concentration of affordable units within sites would be higher, as there is no longer the requirement to merge them into a wider open-market development.[182] Thus, it is reasonable to assume that the units created will more closely resemble the layout and spatial characteristics of the council housing model pursued in the 1960s and 1970s.[183]

177. Chris Hayward. 'The UK: leading the way in impact investing', *City of London, The Global City* (2025), accessed 16/12/2025, https://www.theglobalcity.uk/insights/thought-pieces/leading-the-way-in-impact-investing
178. 'The case for private investment into affordable housing in London', *BusinessLDN* (2022), accessed 16/12/2025, https://www.businessldn.co.uk/sites/default/files/documents/2022-10/BLDN_Report_Affordable%20Housing_1.pdf
179. 'York Local Plan Preferred Options – Summary Of Responses', *York City Council* (2014), accessed 16/12/2025, https://www.york.gov.uk/downloads/file/2285/section-12-affordable-housing
180. See page 23 of this report.
181. 'Research Examines LIHTC Project Locations', *Research Works* (2011), accessed 17/12/2025, https://archives.huduser.gov/periodicals/researchworks/RW_December_11.html; See page 23 of this report.
182. Casey J. Dawkins. 'Exploring the Spatial Distribution of Low Income Housing Tax Credit Properties', *U.S. Department of Housing and Urban Development | Office of Policy Development and Research* (2011), accessed 17/12/2025, https://www.novoco.com/public-media/documents/hud_dawkins_exploring_lihtc_assisted_housing_.pdf
183. Helen Garrett, Simon Nicol, Molly Mackay. '100 Years of Council Housing'. *BRE Trust* (2020), accessed 17/12/2025, https://files.bregroup.com/bretrust/100_years_of_council_housing.pdf

# The Political Economy of S106 Reform

The political appeal of S106 has always rested on the premise that it secures affordable units 'for free'. That is, without direct public expenditure. This is a mischaracterisation.

The use of S106 to secure affordable housing yields no winners. Developers are constrained against selling open-market stock until their S106 obligations are discharged and LPAs spend time and resources negotiating new agreements and renegotiating others that have failed. All the while, renters and families across the country that rely on affordable housing wait on a system that lacks both consistency and certainty.

When development viability is marginal, the affordable housing component is negotiated away first. Developers submit financial viability assessments that aim to highlight the costs of developing S106 units.[184] In a large proportion of cases, and after protracted negotiations, local authorities accept a lower proportion of affordable housing than their original agreements stipulated. The protracted nature of these negotiations was recently borne out in Peckham. Here, developer Berkeley Homes submitted plans to cut the number of affordable units delivered as part of the site from the then-London plan target of 35% to 8%. The scheme (which would see the development of nearly 900 homes) was subject to a public inquiry after rejection from the local authority, and remains delayed today.[185]

Where negotiation fails entirely, the commuted sum mechanism ostensibly provides a further release valve. Yet, as outlined earlier, this process itself embeds further delay. Developers must first demonstrate that no RP is willing to acquire the units before a commuted sum can be agreed. Some local authorities stipulate minimum time windows for these processes to take place, which can approach half a year.[186] Even when commuted sums are paid, the evidence suggests that the resulting funds are not efficiently reinvested, with approximately £6 billion in S106 developer contributions unspent by local authorities across England.[187] The affordable housing that S106 was supposed to deliver is, in many cases, neither built nor funded, and is simply lost.

None of this should suggest that developers, LPAs or HAs are acting in bad faith. Instead, they are responding rationally to the incentives that this system creates. LPAs lack the resources to negotiate complex viability assessments on equal terms with well-capitalised developers.[188] RPs, facing rising costs and regulatory uncertainty, cannot prudently take on additional liabilities, especially when factoring concerns over the quality of homes created under S106.[189] Developers, confronting marginal viability and uncertain RP demand, rationally seek to minimise their exposure. Thus, each actor in turn responds rationally to market signals. The failure of S106 lies not with the actors

184. See page 10 of this report.
185. Tom Lowe. 'Berkeley defends decision to cut affordable housing to 8% in controversial Peckham scheme on first day of public inquiry', *Building* (2025), accessed 31/03/2026, https://www.building.co.uk/news/berkeley-defends-decision-to-cut-affordable-housing-to-8-in-controversial-peckham-scheme/5138982.article
186. See page 18 of this report.
187. See page 19 of this report.
188. 'Housebuilding market study planning working paper', *Competition and Markets Authority* (2023), accessed 30/03/2026, https://assets.publishing.service.gov.uk/media/65538e9f50475b0013c5b5b7/Planning_working_paper_-_Housebuilding_market_study.pdf
189. Carl Brown. 'JV North calls for housing associations' feedback to be included in housebuilders' star rating system amid quality concerns', *Housing Today* (2026), accessed 30/03/2026, https://www.housingtoday.co.uk/news/jv-north-calls-for-rps-feedback-to-be-included-in-hbf-star-rating-system-amid-section-106-quality-concerns/5140543.article

who operate within the system, but with the system itself. This is what the proposals outlined in this paper seek to address.

The political risk of reform lies in the perception—however inaccurate—that abolishing S106 housing obligations constitutes an abandonment of affordable housing provision. This paper has sought to demonstrate that the contrary is true. The S106 system is failing to deliver the affordable units it mandates: as of June 2025, 8,500 units were without an RP, whilst S106 starts in London collapsed from 4,857 to 7 between FY 2022–23 and 2023–24.

The proposals in this paper: the abolition of S106, a return to centralised Homes England grant funding, the preferential targeting of grants to areas of high need and low construction cost, and the reduction of barriers to private capital involvement, would create a system of affordable housing provision that is transparent, counter-cyclical, and fiscally responsible. It would better secure the sustainability of affordable housing provision for those in need, whilst ensuring the continued presence of affordable homes throughout the country. This could be realised without the cost to open market construction and delay to delivery that S106 incurs.

This paper does not seek to dismiss the necessity of affordable housing. The question for policy-makers is whether the mechanism currently used to deliver it is the most effective one available. The evidence presented in this paper suggests that it is not, and that continuing to deploy S106 as a condition of planning risks suppressing and delaying the delivery of homes, both open market and affordable.

# Conclusion

The S106 system was honourably intended to facilitate the construction of homes for whom the open market falls short. However, as we have demonstrated throughout this paper, S106 has become counterproductive to this end. Instead, it is obstructing the construction of affordable homes whilst locking up open-market properties tied to them, suppressing housing stock and increasing house prices and rents in the process.

This paper has sought to create an alternative to S106 that remedies its negative consequences whilst achieving its primary mission of facilitating the creation of homes that can reduce the rent burden of those who need it most.

Firstly, the S106 framework must be abolished—it is causing more harm than good in its suppression of open-market properties through its trigger point clauses. It is effectively an in-kind tax on house-building to the sum of £1.3 billion (or £13,600 per open-market home delivered by private enterprise) that artificially inflates the cost of development. The commuted sum provision is insufficient in the context of the housing sector's marked cash flow shortage. Unfortunately, S106 is no longer fit for purpose.

Secondly, the flat grant system of Homes England SAHP should expand to provide 100% of the affordable housing provisions. The flat sum grant approach has a proven track record of effectively incentivising the construction of affordable housing, as shown through the LIHTC system in the USA. Whilst LIHTC exemplifies the potential benefits of empowering private capital in the affordable housing sector, it contains many complexities that increase market distortions and lead to higher administrative expenses. Thus, a simple grant system is more applicable and efficient when applied to England.

Thirdly, Homes England grants should be distributed according to our FairHomes geographical guidelines. The provision of unstrategic construction subsidies imparts market distortions that come to disincentivise construction of homes where demand is highest. Furthermore, there are areas—particularly in London—where affordable housing remains unaffordable even with construction grants. Instead, grants should be laser-focused towards areas where demand for affordable housing is high and construction cost is low. With the FairHomes framework, the largest proportion of people will have their rent burden alleviated relative to the amount of grant money spent and tax money levied.

Fourthly and finally, the government must lower barriers to entry of private capital to the affordable housing sector. This can be done by 1) either abolishing or promising no further increases to minimum EPC band requirements by and beyond 2030, 2) promising no further changes to rent control provisions for affordable and open-market properties, and 3) lowering the Homes England SAHP grant prospective minimum unit construction quantity by 2036 for pre-existing and new developers from 1,000 and 1,500 (respectively) to 100 units. This would reduce both legal and attitudinal barriers preventing private capital from contributing to the construction of affordable homes.

The government is currently considering streamlining the process of negotiating commuted sums from developers in exchange for waiving their S106 affordable housing obligations. This is a step in the right direction, but does not touch upon the core structural issues that—if left unaddressed—will continue to tax house-builders, suppress housing stock, and perpetuate the housing crisis.

These proposals would, in part or in whole, contribute to more houses being built, including both open-market and affordable units.